

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

MANHATTAN BEACH UNIFIED
SCHOOL DISTRICT AND SOUTHWEST
SELPA.

OAH Case No. 2016030983

ORDER GRANTING SOUTHWEST
SELPA’S MOTION TO DISMISS

On March 17, 2016, Parents on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing naming Manhattan Beach Unified School District and the Southwest Special Education Local Planning Area.

On March 24, 2016, Southwest SELPA filed a motion to dismiss Southwest SELPA as a respondent from Student’s complaint.

On March 28, 2016, Student filed an opposition to Southwest SELPA’s motion to dismiss.

APPLICABLE LAW AND DISCUSSION

Although special education law does not provide a summary judgment procedure, OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction and easily provable. Here, the sole issue is whether SELPA is a proper party, a matter easily proven without a formal summary judgment procedure.

In general, Individuals with Disabilities Education Act due process hearing procedures extend to “the public agency involved in any decisions regarding a pupil.” (Ed. Code, § 56501, subd. (a).) A “public agency” is defined as “a school district, county office of education, special education local plan area, . . . or any other public agency . . . providing special education or related services to individuals with exceptional needs.” (Ed. Code, §§ 56500 and 56028.5.) Thus, although a SELPA may fit the definition of “public agency” set forth in the IDEA, to be a proper party for a due process hearing the SELPA must also be involved in making decisions regarding a particular student.

Determination of whether the SELPA is a “public agency involved in any decisions regarding” Student requires a review of California statutes that define the role of SELPA’s.

Education Code sections 56195, 56195.1, and title 2, California Code of Regulations, section 60010 set forth the role of SELPA's. Specifically, a SELPA, meaning the service area covered by a special education local plan, shall administer the allocation of funds, and local plans submitted under Education Code section 56205.

Nothing in Education Code sections 56195 and 56195.1 renders a SELPA individually responsible to provide a free appropriate public education to, or make education decisions about, a particular student. The duty to administer the allocation of funds and local plans is not a duty to provide FAPE to individual students or a duty to make educational decisions for individual students.

In Student's complaint, he alleges that Manhattan Beach "is the local education agency pursuant to the applicable provisions of the Individuals With Disabilities Education Act and the California Education Code charged with providing [Student] with an appropriate education in the least restrictive environment." (Complaint, pp. 2-3) Student explains that the basis for naming Southwest SELPA as follows: "The extent to which the District relies on the Southwest Special Education Local Planning Area (the "SELPA") for broader programming options, for procedural forms and training, and for contracting with nonpublic and out-of-state providers, SELPA is equally responsible under the IDEA for ensuring [Student] receives a free and appropriate public education." Student fails to allege any facts to demonstrate that the Southwest SELPA is a public education agency involved in making any decisions regarding Student.

Under the authority cited above, the IDEA places responsibility on a public agency, including a SELPA, if that public agency was involved in making decisions about that particular student. Student fails to allege any facts to demonstrate that Southwest SELPA was involved in making any decisions regarding Student, nor has Student cited to any authority, that support a finding that SELPA is a proper party to this action.

Because Education Code sections 56195 and 56195.1 do not establish that the SELPA had an independent duty to provide a FAPE to Student, and the SELPA was not the entity making educational decisions about Student, the SELPA is entitled to dismissal because it is not a proper party under Education Code section 56501 subdivision (a).

ORDER

Southwest SELPA's motion to be dismissed as a party is GRANTED. Southwest SELPA is dismissed.

DATE: April 4, 2016

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings